

MONTANA LEGISLATIVE HISTORY

Chapter 206 19 83

Bill H _____ S 423 Original bill & history X C

H. Committee on Business & Industry

Hearing Date(s) Mar 08 ☒ C

_____ ☐ C

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Date Out Mar 08 ☒ C

S. Committee on Business & Industry

Hearing Date(s) Feb 18 ☒ C

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Feb 18 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE BILL NO. 423

INTRODUCED BY TURNAGE, B. BROWN, KOLSTAD

BY REQUEST OF THE SENATE BUSINESS AND
INDUSTRY COMMITTEE

IN THE SENATE

February 15, 1983	Introduced and referred to Committee on Business and Industry.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 48; Noes, 1. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Business and Industry.
March 8, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 10, 1983	Second reading, concurred in.
March 11, 1983	Third reading, concurred in.

IN THE SENATE

March 12, 1983

Returned to Senate with amendments.

March 14, 1983

Second reading, amendments concurred in.

March 15, 1983

Third reading, amendments concurred in. Ayes, 47; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

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State BILL NO. *423*
INTRODUCED BY *Tunney Bob Brown*
BY REQUEST OF THE SENATE BUSINESS AND
INDUSTRY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT CERTAIN
COOPERATIVES MUST HAVE MEMBERSHIP APPROVAL TO CREATE
LONG-TERM OBLIGATIONS RELATED TO BONDED INDEBTEDNESS UNDER
CERTAIN CIRCUMSTANCES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Long-term indebtedness -- membership
approval. Before a cooperative may create or enter into an
agreement that results in any direct or indirect obligation
for the repayment of long-term bonded indebtedness that may
result in a rate increase to the cooperative's members for
repayment of the obligation, the cooperative must receive
approval from a majority of its members. The approval must
be obtained at a special meeting held for that purpose.

Section 2. Codification instruction. Section 1 is
intended to be codified as an integral part of Title 35,
chapter 18, and the provisions of Title 35, chapter 18,
apply to section 1.

-End-

INTRODUCED BILL

SR 423

CONSTITUTIONAL AMENDMENT TO BE PLACED ON THIRD READING
3RD READING: 02/22/83 AYES: 18; NAYS: 30, FAILED

TRANSMITTED TO HOUSE: 02/22/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/28/83
REPORT: 03/10/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/14/83, BE NOT CONCURRED IN AYES: 68; NAYS: 31
3RD READING: 03/15/83, BE NOT CONCURRED IN AYES: 31; NAYS: 66
BILL KILLED

SB 422 -- HALLIGAN -- TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE, EXECUTION, AUTHENTICATION, AND TRANSFER OF PUBLIC OBLIGATIONS IN REGISTERED FORM; AND PROVIDING AN EFFECTIVE DATE.

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/15/83
HEARING: 02/16/83
REPORT: 2/16/83, DO PASS
2ND READING: 02/19/83 AYES: 48; NAYS: 0
3RD READING: 02/22/83 AYES: 49; NAYS: 0

TRANSMITTED TO HOUSE: 02/22/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/28/83
HEARING: 3/3/83
REPORT: 03/10/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/19/83, BE CONCURRED IN AYES: 79; NAYS: 0
3RD READING: 03/21/83, BE CONCURRED IN AYES: 95; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/22/83
2ND READING: 03/23/83 AYES: 50; NAYS: 0
3RD READING: 03/24/83 AYES: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/30/83
SIGNED: 04/04/83, CHAPTER 364

SB 423 -- TURNAGE, BOB BROWN, KOLSTAD -- TO REQUIRE THAT CERTAIN COOPERATIVES ~~WHICH~~ HAVE MEMBERSHIP APPROVAL TO CREATE LONG-TERM OBLIGATIONS RELATED TO ~~BACKED~~ INDEBTEDNESS UNDER CERTAIN CIRCUMSTANCES.

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/15/83
HEARING: 2/18/83
REPORT: 02/18/83, DO PASS, AS AMENDED
2ND READING: 02/21/83 AYES: 49; NAYS: 1
3RD READING: 02/23/83 AYES: 48; NAYS: 1

TRANSMITTED TO HOUSE: 02/23/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/28/83
HEARING: 3/08/83
REPORT: 03/08/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/10/83, BE CONCURRED IN AYES: 94; NAYS: 0
3RD READING: 03/11/83, BE CONCURRED IN AYES: 98; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/12/83
2ND READING: 03/14/83 AYES: 49; NAYS: 0
3RD READING: 03/15/83 AYES: 47; NAYS: 0

consumer? Tom Schneider stated federal law has a particular requirement for the DSI rates which are tied to the residential or farm rates. The law requires that rates would change and pick up the discount for residential and farm over a five-year period. That is hard law. BPA has to set their rates according to that law. He does not think they have much flexibility to change.

In closing, Senator Elliott urged concurrence in Senate Joint Resolution 17.

The hearing was closed on Senate Joint Resolution 17.

CONSIDERATION OF SENATE BILL 423: An act to require that certain cooperatives must have membership approval to create long-term obligations related to bonded indebtedness under certain circumstances.

Senator Jean Turnage gave the committee amendments to this bill. (Exhibit No. 3) He stated without the amendments which he has assured the cooperatives he would offer, the bill would be a great problem in their viewpoint. It provides a quorum that would vote. The bill is an effort to call attention to the problem that happened in the participation bonded indebtedness relative to nuclear plants to be constructed and which construction failed and therefore they are now forced to pay for that. He does not know if the results would have been different if they had disclosed this to the members and obtained their consent. This cannot apply retroactive.

PROPOSERS TO SENATE BILL 423: James Loftus stated he is a member of Missoula Electric Cooperative. He supports Senate Bill 423 because we should have had this type of law before. Because of "WHOOOPS" his power bill has increased out of reason and he feels he is paying for a "dead horse" and can do nothing about it.

Jay Downen, Rural Electric Cooperatives, stated we think the cooperative is a democracy in one of its purest forms. He has seen directors who were not responsive to their membership removed. The directors do not have the opportunity to vote their own conscience they vote the way the constituents want. They will not be able to make these decisions without the direct approval of their members. Yellowstone Valley and others in the state are setting up memberships to analyze rates. No longer does the management do the rate study they do it with the membership. They will not oppose the bill as amended.

There were no further proponents and no opponents.

There were no questions from the committee.

In closing, Senator Turnage asked that the condensed information obtained be put in the record. (Exhibit No. 4)

ACTION ON SENATE BILL 423: Senator Regan made the motion that the proposed amendments to Senate Bill 423 Be Adopted. Senator Dover seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amend-

ments to SENATE BILL 423 BE ADOPTED.

Senator Dover made the motion that Senate Bill 423 As Amended Do Pass. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 423 AS AMENDED DO PASS.

CONSIDERATION OF SENATE BILL 432: An act requiring wholesalers, manufacturers, and distributors of farm implements, industrial and construction equipment, and vehicles to repurchase such items from retail dealers upon cancellation of dealership contracts; and providing an immediate effective date.

Senator Ed Smith stated this is just a simple bill. If a company decides to close up and cancel a dealership it must purchase back the inventory. He told about an individual who had a John Deere dealership. The company had been trying to close some of the smaller dealerships. They cancelled this individual and left him sitting with a lot of inventory.

PROPOSERS TO SENATE BILL 432: Blake Wordal, Montana Hardware and Implement Association, stated they strongly support this bill. His written testimony is attached to the bill. (Exhibit No. 5)

Jerry Raunig, Montana Auto Dealers Association, stated they support this bill because the auto and truck dealers are included in the bill and some are also farm dealers.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Fuller stated I appreciate what you are saying here. Can we force someone to do this even though the contract does not say it? Mr. Raunig stated yes.

Senator Gage asked is this bill materially different than the bill you opposed previously? Mr. Wordal stated it is more detailed than the other bill and that is why it is more acceptable.

Senator Boylan asked would this depress other manufacturers wanting to come into the State of Montana? Mr. Wordal stated the manufacturer representatives basically do not support this legislation but are not opposed either.

ACTION ON SENATE BILL 432: Senator Dover made the motion that Senate Bill 432 Do Pass. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 432 DO PASS.

ACTION ON SENATE BILL 323: Senator Lee stated he has received a letter from Senator Tom Hager asking that we Table this bill.

Senator Lee made the motion that Senate Bill 323 Be Tabled. Senator Dover seconded the motion.

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

DATE 2-18-83

NAME	PRESENT	ABSENT	EXCUSED
PAUL F. BOYLAN	✓		
B. F. CHRIS CHRISTIAENS	✓		
HAROLD L. DOVER	✓		
DAVID FULLER	✓		
DELWYN GAGE	✓		
PAT M. GOODOVER	✓		
GARY P. LEE, VICE CHAIRMAN	✓		
PAT REGAN	✓		
PAT M. SEVERSON	✓		
ALLEN C. KOLSTAD, CHAIRMAN	✓		

STANDING COMMITTEE REPORT

February 18

19 83

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 423

Respectfully report as follows: That SENATE Bill No. 423
be amended as follows:

1. Page 1, line 15.
Following: "indebtedness"
Insert: "for financing directly or indirectly the construction,
maintenance, or operation of nuclear power generating facilities"
2. Page 1, line 18.
Following: "members"
Insert: "present and voting at the meeting"

AND AS AMENDED,

DO PASS

Amendment to SB 423

1. Page 1, line 15.

Following: "indebtedness"

Insert: "for financing directly or indirectly the construction,
maintenance, or operation of nuclear power generating
facilities"

2. Page 1, line 18.

Following: "members"

Insert: "present and voting at the meeting"

RE: WPPS - Affect on Co-ops in Montana

THE CESSATION OF CONSTRUCTION OF WPPS (WOOPS)

4 & 5 NUCLEAR FACILITIES AFFECTED THE FOLLOWING:

RURAL ELECTRIC CO-OPS IN WESTERN MONTANA.

- (1) MISSOULA ELECTRIC CO-OP
- (2) NORTHERN LIGHTS ELECTRIC CO-OP
- (3) RAVALLI COUNTY ELECTRIC
- (4) VIGILANTE RURAL ELECTRIC (DILLON)
- (5) GLACIER ELECTRIC (CUT BANK)

THESE FIVE WESTERN MONTANA CO-OPS FINANCIAL RESPONSIBILITY
IS (A) \$2.25 BILLION (B) WITH INTEREST OVER \$7 BILLION
WHICH WILL BE AMORTIZED OVER A 30 YR. PERIOD.

PLUS TERMINATION OR MOTHBALL COSTS OF \$231,154,000.00,
THE ONLY OTHER ELECTRIC UTILITY IN MONTANA THAT HAD AN INTEREST
IN WPPS 4 & 5 WAS P. P. & L. (PACIFIC POWER & LIGHT).
A HEARING BEFORE THE MONTANA P.S.C. ON THE ISSUE, THE P.P. & L.'S
REQUEST TO RECOUP THEIR INVESTMENTS IN ABANDONED NUCLEAR FACILITIES
WAS HELD IN JANUARY. THE MONTANA CONSUMER COUNSEL IS CURRENTLY
BRIEFING THIS ISSUE.

NAME: JAMES A LOFFTUS DATE: FEB 15, 85

ADDRESS: 14522 HELLGATE LANE TURAH MONT 5782

PHONE: 258 6806

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: SB 423

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?
I AM A MEMBER OF MISSOULE ELECTRIC CO-OP

COMMENTS: I SUPPORT S.B.423 BECAUSE WE SHOULD
HAVE HAD THIS TYPE OF LAW BEFORE,
BECAUSE OF "WHOOPS" MY POWER BILL
HAS INCREASED OUT OF REASON AND I FEEL I
AM PAYING FOR A BAD HORSE AND
CAN DO NOTHING ABOUT IT I URGE
YOUR SUPPORT. THANK YOU

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on March 8, 1983, in Room 420 of the Capitol Building, Helena, Montana at 9:00 a.m. All members were present except Rep. Ellison and Rep. Kadas who were excused.

SENATE BILL 423

SEN. TURNAGE, District 13, sponsor, opened by saying we are all aware of the nuclear energy power development failures on the coast. A number of Montana rural electric utilities became involved in a contractual basis with the development of those plants which failed in completion and they are now serious losses for those participating. There were five co-ops in the loan shares in WPPS 4 and 5. Glacier Electric Co-Op has a \$4,027,500 obligation; Missoula Electric Co-Op has a \$13 million bad debt; Northern Lights Co-Op has \$11 million outstanding; Ravalli Electric Co-Op has \$5 million and Vigilante Co-Op has \$6 million in bad debts. These must be paid because bonds have been issued and the consumers of the utility will have their rates raised to pay these expenses. The idea behind the bill would be to put red flags up in the future for long-term bonding to the utilities. This will not deny payment of the bonds already in place. This would require a meeting of the members of the co-op and they would vote as to whether they should enter into such obligations. It is amended to apply to operations of nuclear power generation facilities.

PROPOSERS:

TIM STEARNS, Northern Plains Resource Council: Much of our membership are co-op members and some belong to the co-ops involved in the WPPS. If we were to complete all five of the nuclear plants it would cost \$24 billion. This bill will prevent more WPPS, hopefully, but it ignores the current reality. No one is contemplating more nuclear plants - they cost too much. Their promise was power without cost - their grim reality is cost without power. I would suggest this bill be amended to reflect the size of new generation, not the source. Both coal plants and hydro electric plants are just as susceptible to inflation, cost over-run, high interest rates and design changes as are nuclear plants. This should be amended to some kind of size threshold.

ROD HANSEN, Rural Electric Co-Ops: We have discussed this bill and have agreed we will not oppose it. We do have one suggested amendment. On line 20, Page 1, we would like the word "its" changed to "those" so it would be a majority of those present at the advertised meeting who vote. Co-Ops promote conservation. They have to or they end up paying more. The bulk of our needs is furnished by Montana Power and the federal government. With the amendments suggested by Mr. Stearns, it would be almost impossible to get our job done. We are paying \$2.50 per kilowatt under the step 1 rate and \$12 per kilowatt under step 2.

SEN. TURNAGE, in closing, said he has no objection to Mr. Hansen's amendment. He understands and sympathizes with Northern Plain's

HOUSE BUSINESS & INDUSTRY COMMITTEE

MARCH 8, 1983

Page 2

but he does not want to create a problem for the co-ops.

QUESTIONS:

REP. FABREGA: Please explain the \$2.50 per kilowatt. Mr. Hansen: The way the rate structure is designed, if we purchase any of those kilowatts at the step 2 rate, then we have to continue paying for it for the balance of the season. There are two seasons a year. If we exceed during the winter season, the allotted kilowatt demand that we have, then we have to buy that additional power at the \$12 rate and continue paying that for the rest of the season.

REP. HARPER: What are your notice requirements for meetings and do you state what the meeting is for? Mr. Hansen: We give about 20 to 30 days notice and they always specify what the agenda will hold.

REP. HANSEN: Is there anything in the Northwest Power Planning Act that designated how these plants are going to be built in the future? Tim Stearns: The Northwest Power Planning Council has developed a range forecast and they are developing a range of options to build the forecast. Bonneville, who implements the plan, now has the ability to purchase power but the intent of the act is that Bonneville not get into building plants, but that they purchase power.

SENATE JOINT RESOLUTION 16

SEN. TURNAGE, District 13, sponsor, opened by saying this is a counter-part to SB 423 in that it points the finger at the public utilities that are privately owned by stockholders. It urges the Public Service Commission to monitor requests for long-term debt relating to nuclear power generating facilities to prevent unnecessary rate increases caused by abandonment or delay in completion of the project. To my knowledge, Pacific Power and Light is the only Montana utility involved. They are involved in Pebble Springs Nuclear Plant No. 5. There is a request before the PSC seeking \$970,000 additional revenue for five years which involved 27,463 Montana users.

PROPONENTS:

BILL OPITZ, Public Service Commission: The Commission wants to go on record supporting the commission looking at long-term debt obligation of the utilities. I did not realize that it had been amended to nuclear generating facilities only. There is a statute that makes the commission look at securities of the regulated gas and electric utilities under our jurisdiction. I don't think it's necessarily true that Pacific Power & Light is going to be able to charge it's consumers for the fiasco at Pebble Springs because the commission has been very careful to put boiler plate in the long-term debt obligation that says nothing in their approval will automatically say when a plant is built by these obligations that they will be put into the

STANDING COMMITTEE REPORT

Linda Palmer

MARCH 3

19 83

MR. **SPEAKER:**

BUSINESS & INDUSTRY

We, your committee on

SENATE

Bill No. 423

having had under consideration

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT CERTAIN COOPERATIVES MUST HAVE MEMBERSHIP APPROVAL TO CREATE LONG-TERM OBLIGATIONS RELATED TO BONDED INDEBTEDNESS UNDER CERTAIN CIRCUMSTANCES."

SENATE

423

Respectfully report as follows: That

BE AMENDED AS FOLLOWS:

1. Page 1, line 20
Strike: "its"
Insert: "those"

AND AS AMENDED

DOES BE CONCURRED IN

Buss + Ind

COMMITTEE

SB 423

3-8

SPONSOR

OP-
POSE

X

X

X

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.